

AN ACT
D.C. ACT 24-794

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

JANUARY 26, 2023

To require that for building permits for new construction or alterations involving the replacement of all or substantially all exterior glazing issued after October 1, 2024, the facade of the building's exterior wall envelope and exterior fenestration largely use bird friendly materials, to prescribe other building elements that must be constructed using bird friendly materials after October 1, 2024, to require that bird hazard installations be installed with bird friendly materials, and to require that the Department of Buildings, in consultation with The Department of Energy and Environment, to issue regulations to aid in implementation of the act.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Migratory Local Wildlife Protection Act of 2022".

Sec. 2. Definitions.

For purposes of this act, the term:

- (1) "Bird friendly materials" means a material or assembly that has been designed or treated to have a maximum material threat factor of 30.
- (2) "Bird hazard installations" means monolithic glazing installations that provide a clear line of sight or mirrored surface on the exterior of buildings, including, awnings, handrails and guards, wind break panels, bus shelter enclosures, skywalk enclosures, and acoustic barriers made of glass or glass-like materials.
- (3) "Commercial building" means income-producing property as identified under zoning classifications that would allow for such uses as office buildings, retail stores, restaurants, bars, taverns, and service facilities pursuant to Title 11 of the District of Columbia Municipal Regulations (11 DCMR § 100.1 *et seq.*).
- (4) "Fly-through conditions" means one or more panels of glass or glass-like materials that provide a clear line of sight through such elements, creating the illusion of a void leading to the other side, including parallel glass or glass-like material elements when the distance between such elements is 60 feet or less, or a convergence of sides made of glass or glass-like materials creating a perpendicular, acute, or obtuse corner.

(5) "Glass or glass-like materials" includes tempered glass, spandrel glass, plexiglass, mirrored products, polished metal, or other glass materials or materials that are transparent or highly reflective.

(6)(A) "Institutional facility" means a facility owned or operated by an organization with a social, charitable, educational, or civic purpose. The term "institutional facility" includes schools, universities, laboratories, medical and healthcare facilities, residential care facilities and nursing homes, athletic facilities, penal institutions, galleries, performance venues, and museums.

"(B) The term "institutional facility" does not include churches, mosques, temples, or other houses of worship.

(7) "Material threat factor" means a measure of a bird's ability to see and avoid a building material; provided, that such measure shall be in accordance with the American Bird Conservancy's Threat Factor Database or with the American Bird Conservancy's Bird-friendly Materials Evaluation Program test protocol.

(8) "Multi-unit residential building" means a residential building with 5 or more dwelling units.

(9) "Skywalk" means any above-grade enclosed walkway of any dimension that connects 2 or more buildings or parts of a building.

(10) "Substantially all" means 75% or more.

Sec. 3. (a)(1) For building permits issued after October 1, 2024, for new construction, or for alterations involving the replacement of all or substantially all exterior glazing on commercial buildings, multi-unit residential buildings, institutional facilities, or District-owned or operated buildings, each façade of the exterior wall envelope and any exterior fenestration shall be constructed with bird friendly materials up to 100 feet above grade; provided, that other materials may be used to the extent that they do not exceed an aggregate of 10 square feet within any 10 feet by 10 feet square area of exterior wall below 100 feet above grade.

(2) The requirements of paragraph (1) of this subsection shall be waived for real property designated as a historic landmark pursuant to section 4 of the Historic Landmark and Historic District Protection Act of 1978, effective March 3, 1979 (D.C. Law 2-144; D.C. Official Code § 6-1103).

(3) The requirements of paragraph (1) of this subsection may be waived for real property within a historic district where the Historic Preservation Review Board or the Old Georgetown Board issues a recommendation to the Department of Buildings that the compliance with paragraph (1) of this subsection would meaningfully and substantially impact historic elements of the property.

(b) For installations with construction commencing after October 1, 2024:

(1) All glazed corners and fly-through conditions located 100 feet or less above grade shall be constructed with bird friendly materials; and

(2) The exterior wall envelope and any exterior fenestration installed adjacent to all green roof systems or roof terraces on the same structure shall be constructed with bird friendly materials up to 24 feet above the surface of the green roof system or walking surface, whichever is higher.

(c) Bird hazard installations shall be constructed of bird friendly materials regardless of their height above grade.

Sec. 4. Section 8(c) of the Green Building Act of 2006, effective March 8, 2007 (D.C. Law 16-234; D.C. Official Code § 6-1451.07(c)), is amended as follows:

(a) A new paragraph (5A) is added to read as follows:

“(5A) Education and outreach on the requirements of the Migratory Local Wildlife Protection Act of 2022, passed on 2nd reading on December 20, 2022 (Enrolled version of Bill 24-710);”.

(b) Paragraph (7) is amended by striking the phrase “; and” and inserting a semicolon in its place.

(c) Existing paragraph (8) is redesignated as paragraph (9).

(d) A new paragraph (8) is inserted to read as follows:

“(8) Income-contingent subsidies to assist District property owners with the costs related to installation of retrofits that meet the requirements of the Migratory Local Wildlife Protection Act of 2022, passed on 2nd reading on December 20, 2022 (Enrolled version of Bill 24-710); and”.

Sec. 5. Rules.

(a) The Department of Buildings, in consultation with the Department of Energy and Environment, shall promulgate regulations to implement the provisions of this act, including establishing standards for bird-friendly building design elements and construction.

(b) Regulations promulgated pursuant to subsection (a) of this of this section shall be submitted to the Council for a 45-day period of review. The Council may approve the proposed regulations in whole or in part. If the Council has not approved the regulations upon expiration of the 45-day review period, the regulations shall be deemed approved.

(c) The absence of regulations shall not delay the applicability of this act or of any provision in this act.

Sec. 6. Applicability.

(a) This act shall apply upon the date of inclusion of its fiscal effect in an approved budget and financial plan.

(b) The Chief Financial Officer shall certify the date of the inclusion of the fiscal effect in an approved budget and financial plan and provide notice to the Budget Director of the Council of the certification.

ENROLLED ORIGINAL

(c)(1) The Budget Director shall cause the notice of the certification to be published in the District of Columbia Register.

(2) The date of publication of the notice of the certification shall not affect the applicability of this act.

Sec. 7. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 4a of the General Legislative Procedures Act of 1975, approved October 16, 2006 (120 Stat. 2038; D.C. Official Code § 1-301.47a).

Sec. 8. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.



Chairman
Council of the District of Columbia



Mayor
District of Columbia
APPROVED
JANUARY 26, 2023



COUNCIL OF THE DISTRICT OF COLUMBIA
WASHINGTON, DC, 20004

Docket No. B24-0710

[X] ITEM ON CONSENT CALENDAR

[X] ACTION

First Reading, CC

[X] VOTE DATE

December 6, 2022

[] VOICE VOTE

RECORDED VOTE ON REQUEST

ABSENT


Gray

[X] ROLL CALL VOTE – Result

Approved

Council Member	Aye	Nay	NV	AB	Rec	Council Member	Aye	Nay	NV	AB	Rec	Council Member	Aye	Nay	NV	AB	Rec
Chairman Mendelson	X					Henderson	X					R. White	X				
Allen	X					Lewis George	X					Silverman	X				
Bonds	X					McDuffie	X					T. White	X				
Cheh	X					Nadeau	X										
Gray				X		Pinto	X										
X - Indicate Vote					AB – Absent					NV - Present, Not Voting					Rec - Recused		

CERTIFICATION RECORD


Secretary to the Council

1-1-23
Date

Docket No. B24-0710

[X] ITEM ON CONSENT CALENDAR

[X] ACTION

Final Reading, CC

[X] VOTE DATE

December 20, 2022

[] VOICE VOTE

RECORDED VOTE ON REQUEST


ABSENT

[X] ROLL CALL VOTE – Result

Approved

Council Member	Aye	Nay	NV	AB	Rec	Council Member	Aye	Nay	NV	AB	Rec	Council Member	Aye	Nay	NV	AB	Rec
Chairman Mendelson	X					Henderson	X					R. White	X				
Allen	X					Lewis George	X					Silverman	X				
Bonds	X					McDuffie	X					T. White	X				
Cheh	X					Nadeau	X										
Gray	X					Pinto	X										
X - Indicate Vote					AB – Absent					NV - Present, Not Voting					Rec - Recused		

CERTIFICATION RECORD


Secretary to the Council

1-1-23
Date